

Remarks

In an Office Action dated October 20, 2006, the Examiner restricted the claims of this application to Claim 1 and rejected Claim 1 as anticipated by Cragg (USPN 6,538,386). Applicant responded on April 20, 2007, by arguing that Cragg does not anticipate the current invention and amending the claims to more particularly set forth the invention. Subsequently, the Examiner rejected the newly amended claims as non-responsive because the new claims utilized verbiage that was synonymous, but not identical, to elected Claim 1. On August 13, 2007, Applicant submitted Remarks and the sworn Declaration of the Inventor, Dr. Paul M. Tsou, clarifying how the new terminology properly limited the claims to the elected invention. Finally, on October 31, 2007, the Examiner again rejected the new claims because the Applicant had not sworn behind every element of the new claims that "render[s] them different inventions."

In light of the considerable effort and uncertainty that would spring from attempting to swear behind every element of the new claims, Applicant has elected to revert back to the prior terminology. Therefore this amendment restates previous claim 1 and withdraws the newly presented claims of April 20. In addition, this amendment presents new claims that not only use the original terminology but also mirror the limitations of the now withdrawn claims, thereby putting the new claims in agreement with the arguments submitted on April 20, 2007.

The newly amended claims should put this application into position for allowance, because they use the same terminology as previously elected claim 1 and because they particularly set forth the features of the present invention.

Conclusion

It is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe that there are matters relating to this application remaining that can be resolved in a telephone interview, the Examiner is urged to call the Applicants' undersigned attorney.

Respectfully submitted,

/marvin h kleinberg/

MARVIN H. KLEINBERG
Attorney for Applicant
Reg. No. 18,402

KLEINBERG & LERNER, LLP
2049 Century Park E., Suite 1080
Los Angeles, CA 90067
Telephone: (310) 557 1511
Facsimile: (310) 557 1540
e-mail: patents@kleinberglerner.com